



## Ad-Hoc Query on the Right to Family Reunification for Unmarried Partners

Requested by BE EMN NCP on 22<sup>nd</sup> September 2012

Compilation produced on 7<sup>th</sup> November 2012

Responses from Austria, Belgium, Bulgaria, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Poland, Portugal, Slovak Republic, Slovenia, Spain, Sweden plus Norway (23 in Total)

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### **1. Background Information**

In order to objectively feed the policy debate with up-to-date and targeted information, Belgium would like to know which Member States grant – and under what conditions - **a right to family reunification to unmarried partners, both those who registered their partnership and those who proved a stable and durable relationship but who are, in the two fore-mentioned cases, not considered as equivalent to marriage**, in the following scenarios:

1. UE citizens and members of their family (option in article 3 – Directive 2004/38/EC)
  - 1.1 Mobile EU citizens






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## 1.2 Non-Mobile EU citizens

## 2. TCNs – Third country nationals (option in article 4.3 – Directive 2003/86/EC)

Please note that we are interested in identifying those Member States which confer a **right to** family reunification as such and **not a discretionary authorisation or option**.

## 2. Responses

		Wider Dissemination?	
	Austria	No	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.
	Belgium	No	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.
	Bulgaria	Yes	<p><u>EU citizens and members of their family</u>  <u>Mobile</u> EU citizens: Yes, Bulgaria confers a right to family reunification</p> <p><u>Non-Mobile</u> EU citizens: Yes, Bulgaria confers a right to family reunification  EU citizens who wish to reside in the Republic of Bulgaria on the basis of family reunification shall declare in writing before the services for administrative control over the foreigners that they live in concubinage and form a household.  Currently the actual marital cohabitation is not covered by the Family Code, although such proposals existed in the Family Code Bill in 2009. Its existence has been recognized by various casuistic regulations regarding the occurrence of specific legal consequences associated with the effective marital cohabitation.</p> <p><u>Third country nationals</u>: No, Bulgaria does not confer a right to family reunification  Under the Bulgarian Aliens Act, TCNs may obtain residence permit on the ground of family reunification only if there is contracted civil marriage. An exception is allowed for the family members of the diplomatic representatives accredited in Bulgaria.</p>
	Czech Republic	No	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.
	Denmark	Yes	<p><u>Danish Alien Act</u></p> <ul style="list-style-type: none"> <li>If the applicant and his/her partner are not legally married or registered partners, the relationship must be of a permanent and lasting nature. Normally, they must be able to document that they have lived with together for at least 18 months at a shared address.</li> </ul>

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			<ul style="list-style-type: none"> <li>• If the applicant and his/her partner are not legally married or registered partners, the partner in Denmark must assume full responsibility for supporting the applicant</li> <li>• The marriage or registered partnership must have been entered into voluntarily, i.e. there must be no doubt that it was entered into according to the wishes of both the applicant and the spouse/partner.</li> <li>• The marriage or registered partnership must not have been entered into solely for the purpose of obtaining a residence permit for the applicant.</li> <li>• The partner must reside permanently in Denmark</li> <li>• The partner may not have been convicted of violence against a former spouse/partner within a period of 10 years prior to your application being processed.</li> <li>• The applicant and his/her partner must sign a declaration that they will both contribute actively to (and any accompanying children's) learning Danish and integrating into Danish society to the best of the applicants ability</li> <li>• It may not be the case that the applicant are also applying for family reunification with a child, and that application is turned down because his/her spouse/partner in Denmark has been convicted of violence against children in the past ten years, and the child cannot reside with other family members in his/her country of origin.</li> </ul> <p><b>Requirements relating both partners:</b></p> <ul style="list-style-type: none"> <li>• Both partners must be at least 24.</li> <li>• The applicant and his/her partners combined attachment to Denmark must be greater than their combined attachment to any other country. The attachment requirement does not apply if the applicants spouse/partner in Denmark has held Danish citizenship for over 26 years. The same applies if the spouse/partner in Denmark was born and raised in Denmark, or came to Denmark as a small child, and has been a legal resident in Denmark for over 26 years.</li> </ul> <p><b>Requirements related to the applicant:</b></p> <ul style="list-style-type: none"> <li>• The applicant must pass a Danish, as a second language, test within six months of being granted residence.</li> </ul> <p><b>Requirements related to the partner:</b></p> <ul style="list-style-type: none"> <li>• The partner in Denmark must be able to support him/herself and the applicant. In most cases, this requirement will be met if the applicants spouse/partner has not received public assistance under the terms of the Active Social Policy Act (lov om aktiv socialpolitik) or the Integration Act (integrationsloven) for the past three years prior to the application being processed by the Immigration Service.</li> <li>• The partner must have accommodation of adequate size at his/her disposal.</li> <li>• The partner must post DKK 50,000 (2012 level) in bank-backed collateral to cover any public assistance paid to you by your municipality after you relocate to Denmark.</li> </ul> <p><b>Further requirements if the partner in Denmark is not a Danish/Nordic citizen:</b></p> <ul style="list-style-type: none"> <li>• The partner must hold a Danish residence permit granted on the grounds of asylum or Protected Status or have held a permanent Danish residence permit for the past three years or more</li> </ul>
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			<ul style="list-style-type: none"> <li>• The partner must meet part of the conditions for being granted a permanent residence permit in Denmark.</li> </ul> <p><b>Dispensation</b></p> <p>One or more requirements can be suspended if special reasons apply. This could be the case, if the partner in Denmark:</p> <ul style="list-style-type: none"> <li>• is a refugee or has protected status and still risks persecution in his/her country of origin.</li> <li>• has children under 18 living in the home who have formed an individual attachment to Denmark, or has children from a previous relationship and has custody of the child or has visitation rights and sees the child on a regular basis.</li> <li>• is seriously ill.</li> <li>• the requirement can in certain cases be waived, if it can be proved that it would be impossible for the partner living in Denmark to be granted residence in the applicant's home country, or country of residence.</li> </ul> <p><b><u>EU law when the reference is an EU citizen</u></b></p> <ul style="list-style-type: none"> <li>• The applicants comprise the following persons/situations:             <ul style="list-style-type: none"> <li>○ Permanent cohabitants over 18 years of age - The conditions for permanent cohabitation follow the Danish rules</li> <li>○ Registered partners - It is a condition that the couple can submit evidence of the registered partnership for example marriage certificate</li> <li>○ It is a condition that the registered partnership/ the permanent cohabitation still is valid when the couple enters Denmark</li> <li>○ The registered partnership /the permanent cohabitation must be genuine - It is a condition that there is no abuse of the EU law</li> </ul> </li> <li>• The reference must have established a genuine and effective residence in Denmark</li> <li>• The reference must have a resided in Denmark as either:             <ul style="list-style-type: none"> <li>○ A worker</li> <li>○ A self-employed person</li> <li>○ A service provider</li> <li>○ A retired worker</li> <li>○ A retired self-employed worker</li> <li>○ A retired service provider</li> <li>○ A student</li> <li>○ A self supporting person (The person must dispose of such sufficient income or means so that he/she is presumed not to become a burden on the public authorities)</li> </ul> </li> <li>• It is a condition that there is no abuse of the EU law</li> </ul> <p><b><u>EU law when the reference is a Danish citizen</u></b></p> <ul style="list-style-type: none"> <li>• The applicants comprise the following persons/situations:             <ul style="list-style-type: none"> <li>○ Permanent cohabitants over 18 years of age - The conditions of permanent cohabitation follow the Danish rules</li> <li>○ Registered partners - It is a condition that the couple can submit evidence of the registered partnership for example marriage certificate</li> </ul> </li> </ul>
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			<ul style="list-style-type: none"> <li>○ It is a condition that the registered partnership/ the regular cohabitation still is valid when the couple enters Denmark</li> <li>○ The registered partnership /the permanent cohabitation must be genuine - It is a condition that there is no abuse of the EU law</li> <li>● The reference must have established a genuine and effective residence in another EU/EEA Member State or Switzerland</li> <li>● The reference must have a resided in another EU/ EEA Member State or Switzerland as either: <ul style="list-style-type: none"> <li>○ A worker</li> <li>○ A self-employed person</li> <li>○ A service provider</li> <li>○ A retired worker</li> <li>○ A retired self-employed worker</li> <li>○ A retired service provider</li> <li>○ A student</li> <li>○ A self supporting person (The person must dispose of such sufficient income or means so that he/she is presumed not to become a burden on the public authorities).</li> </ul> </li> <li>● The application must be submitted in natural continuation of the Danish reference´s return to Denmark</li> <li>● It is a condition that there is no abuse of the EU law</li> <li>● It is a condition that the registered partnership/ the permanent cohabitation is genuine</li> <li>● It is a condition that the stay in the other EU/EEA Member State or Switzerland is genuine</li> </ul>
	<p><b>Estonia</b></p>	<p align="center"><b>Yes</b></p>	<p><u>1. UE citizens and members of their family</u> (option in article 3 – Directive 2004/28/EC) and 1.2 –  Yes, Estonia confers a right to family reunification. According to the national law the right to apply for right of residence applies to citizens of the member states of the EU and of the European Economic Area who are not Estonian citizens, and to citizens of the Swiss.</p> <p>A family member shall have the right of temporary residence provided that the EU citizen with whom he/she wants to settle:</p> <ul style="list-style-type: none"> <li>- is employed or self-employed in Estonia;</li> <li>- he/she has sufficient legal income which ensures his/her own subsistence and that of his/her family member and he/she has a valid health insurance;</li> <li>- studies in Estonia and he/she has sufficient legal income which ensures his/her own subsistence and that of his/her family member and he/she has a valid health insurance.</li> </ul> <p>The preconditions for the right of temporary residence are the following:</p> <ul style="list-style-type: none"> <li>- the EU citizen meets one the above-mentioned conditions;</li> <li>- the EU citizen has the right of temporary or permanent residence;</li> <li>- the applicant corresponds to the definition of a family member;</li> <li>- there are no circumstances which allow refusing to grant the right temporary residence.</li> </ul> <p><u>2. TCNs – Third country nationals</u> (option in article 4.3 – Directive 2003/86/EC) - According to national law Estonia does not apply the</p>




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			right to family reunification to unmarried partners.
	Finland	Yes	<p>The concept of a family member is defined in the Aliens Act, according to which persons living continuously in a marriage-like relationship within the same household regardless of their sex are comparable to a married couple. The requirement is that they have lived together for at least two years. This is not required if the persons have a child in their joint custody or if there is some other weighty reason for it.</p> <p>TCNs – Third country national: In case a person is not considered a family member a temporary residence permit could, however, be issued for other special reasons such as family life when the person is coming to Finland with the intention of leading a family life/getting married in Finland. In practice it would be required that the relationship is stable and has been continuing for a considerably long time and there is reliable proof of it. Issuing a residence permit further requires that the person has secure means of support - in individual cases an exemption may be made.</p> <p>UE citizens and members of their family: They should not be treated in a less favorable way. Therefore, in case the right of residence cannot be registered or approved, a residence permit could be issued based on the same conditions as to TCNs.</p>
	France	Yes	<p><u>1. UE citizens and members of their family</u></p> <p><u>1.1. Mobile EU citizens:</u> yes, France confers <b>a right to family reunification to unmarried partners after a detailed examination of each situation.</b></p> <p>According to Articles R. 121-2-1 and 121-4-1 of the Code on Entry and Residence of Foreigners and Right of Asylum (Code de l'entrée et du séjour des étrangers et du droit d'asile = CESEDA), created by the Decree no 2011-1049 of 6 September 2011 transposing Directive 2004/38/CE, any third-country national may have the right to reside in France if he/she <b>provides evidence of private and lasting family bonds other than matrimonial bonds with an EU citizen.</b> Circulars IMIM1000116C of 10 September 2010 relating to the conditions of exercising the right to reside of European and similar nationals as well as their family members, and IOCL1130031C of 21 November 2011 relating to the details of enforcement of the above mentioned circular specify that this applies to <b>partners in a civil partnership, cohabitees and same-sex married couples.</b></p> <p>The applicants can prove the bond of the partnership by <b>any appropriate means.</b></p> <p>In France, the durability of a relation in the framework of a partnership can be established as follows:</p> <ul style="list-style-type: none"> <li>- <b>1 year</b> for partners bound by a marriage entered into abroad between persons of the same sex;</li> <li>- <b>1 year</b> for partners bound by a contract of a civil union (pacte civil de solidarité = PACS) or a foreign partnership;</li> <li>- <b>5 years</b> for cohabitees (concubins). The requirement of the durability of the relation could be applied with flexibility with the consideration of other relevant elements such as, for example, a common mortgage or the birth of common children.</li> </ul>


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			<p>1.2. <u>Non-Mobile EU citizens</u>: no, France does not confer a right to family reunification.</p> <p>2. <u>TCNs – Third country nationals</u>: no, France does not confer a right to family reunification.</p>
	<b>Germany</b>	<b>Yes</b>	<p>Apart from matrimony, the entitlement for family unification of a third-country national who is not entitled to freedom of movement, with a German national, with a citizen of the Union or with a third-country national can only be imparted through a life-long conjugal relationship of two homosexual life-long partners in accordance with the Civil Partnerships Act. Homosexual partnerships entered into in accordance with foreign legislation are included in the term “life-long conjugal relationship” if the partnership has been officially recognised by the State and if such a partnership in essence corresponds to the configuration of the German life-long conjugal partnership. The essential equivalent prevails if the foreign legislation assumes a life-long conjugal partnership of the partners and in particular provides for reciprocal maintenance obligations of the life partners and the possibility of accruals of long-term obligations should the partnership be dissolved. Relationships that do not fulfil the prerequisites of matrimony or of a life-long conjugal relationship within the meaning explained above, do not impart the entitlement to family unification.</p>
	<b>Greece</b>	<b>Yes</b>	<p>The entry and residence of TCNs who are unmarried partners of an EU citizen, as well as their minor children (under 21 years of age) or the minor children of the partner, is facilitated, according to art. Article 3 par.2 (b) of the Directive 2004/38/EC as implemented in Greek legislation, by issuing a residence permit, under the following conditions:</p> <ul style="list-style-type: none"> <li>• Hold a valid passport or other travel document</li> <li>• The EU citizen is steadily living in Greece</li> <li>• Maintain a common residence with the EU citizen</li> <li>• Submit documented proof of their stable relationship with the EU citizen (proof for the stability of the relationship is either the documentation registering the relationship or the existence of a common or adopted child, other evidence proving the long-term legal, social or financial commitment between the partners)</li> <li>• They have full health insurance</li> </ul> <p>The above mentioned facilitation rules apply both in cases of mobile or non-mobile EU citizens.</p> <p>In the case of TCNs who are unmarried partners of third country nationals legally residing in Greece, no such right is conferred, according to article 4, par. 3 of Directive 2003/86/EC, as this provision is not implemented to Greek legislation.</p>
	<b>Hungary</b>	<b>Yes</b>	<p><b><u>EU citizens and members of their family</u></b></p> <p>Mobile EU citizens: yes, Hungary confer a right to family reunification          Non-mobile citizens: yes, Hungary confer a right to family reunification</p>

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			<p>In the respect of the EU citizens family member shall mean:a) the spouse of an EEA national; b) the spouse of a Hungarian citizen; c) the direct descendants of an EEA national and those of the spouse of an EEA national who are under the age of 21 or are dependants; d) the direct descendants of a Hungarian citizen and those of the spouse of a Hungarian citizen who are under the age of 21 or are dependants; e) - unless otherwise prescribed in this Act - the dependent direct relatives in the ascending line of an EEA national and those of the spouse of an EEA national; and f) the direct relatives in the ascending line of a Hungarian citizen and those of the spouse of a Hungarian citizen; g) the person who has parental custody of a minor child who is a Hungarian citizen; h) any person whose entry and residence has been authorized by the competent authority on grounds of family reunification; i) the partner, who is a third-country national, with whom the EEA national has contracted a registered partnership before the relevant Hungarian authority, or the authority of another Member State of the European Union, j) the partner, who is a third-country national, with whom the Hungarian citizen has contracted a registered partnership before the relevant Hungarian authority, or the authority of another Member State of the European Union.</p> <p>The competent authority may grant the right of residence to persons on the grounds of family reunification, who: a) are dependants or members of the household of a Hungarian citizen for a period of at least one year, or who require the personal care of a Hungarian citizen due to serious health grounds; or had been dependants or members of the household of an EEA national in the country from which they are arriving, or who require the personal care of an EEA national due to serious health reasons.</p> <p><b><u>TCNs – Third country nationals:</u></b> yes, Hungary confer a right to family reunification.</p> <p>In the respect of TCNs family member shall mean:a) the spouse of a third-country national; b) the minor child (including adopted children) of a third-country national and his/her spouse; c) the minor child, including adopted and foster children, of a third-country national where this third-country national has parental custody and the children are dependent on him/her; d) the minor child, including adopted and foster children, of the spouse of a third-country national where the spouse has parental custody and the children are dependent on him/her.</p> <p>A residence permit may be issued on the grounds of family reunification to a third-country national who is relative of a third-country national who is in possession of a residence permit, immigration permit, permanent residence permit, interim permanent residence permit, a national or EC permanent residence permit, or - under specific other legislation - in possession of a residence card or permanent residence card (for the purposes of this Section hereinafter referred to as "sponsor").</p> <p>The following persons may be granted a residence permit on the grounds of family reunification: a) family members of persons with refugee status, and b) the parents of unaccompanied minors with refugee status, or their legally appointed guardian. A decision rejecting an application for family reunification with a person with refugee status may not be based solely on the fact that documentary evidence of the family relationship is lacking. The following relatives of sponsors, the spouses of sponsors or persons with refugee status may be granted a residence permit on the grounds of family reunification: a) their parents who are dependants; b) their brothers and sisters, if they are unable to provide for themselves due to health reasons.</p>
	Italy	Yes	The status of spouse derives from the institution of “marriage”, the only legal instrument recognized by the Italian legal system for the relationship of a couple formed by a man and a woman, which is considered by the Italian Constitution (Art. 29) a requirement for




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			<p>legitimate filiation. The Italian legal system does not recognize the status of family members to more uxorio cohabiting couples (the so-called “de facto couples”), as repeatedly stressed by the Constitutional Court. In several judgments, in fact, the Court specified that Article 19 of the Consolidated Act on Immigration is not unconstitutional insofar as it does not prohibit the expulsion of third-country nationals cohabiting more uxorio with an Italian citizen (Constitutional Court, ord. 313/2000; Constitutional Court, ord. 481/2000).</p> <p>The non-recognition of the “spouse” or “family member” status to more uxorio cohabiting couples was also reaffirmed by the Supreme Court (judgment 6441\2009, First Civil Division), even when the union is registered and recognized in the country where it was contracted, as in Italy registered unions are not considered a marriage.</p> <p>A recent judgment of the Court of Reggio Emilia (filed on February 13, 2012 and relating to the proceeding 1401/2011), however, established the recognition of the status of “spouse” under art. 2, letter b), n. 1) of the Legislative Decree 30/2007, when by way of documented evidence it is proven that a marital type of relationship has formed, even between persons of the same sex, in an EU country that recognizes such kind of union under its national law. So, according to the judgment in question, the free movement of a citizen and his/her family members or spouse must be guaranteed, regardless of the recognition of same-sex marriage by the national law of the spouses; thus, the only relevant aspect is the place where the marital type of relationship was contracted. There are certain legislative proposals in this regard, but at the moment there are no conditions for approval.</p>
	<b>Latvia</b>	<b>Yes</b>	<p>1. Mobile EU citizens and their family members (Directive 2004/38) – yes, Latvia grants a right to family reunification. <u>Conditions:</u> applicants can prove their partnership for a period at least of 2 years prior to submission of application or they have a child together. In that case condition of 2 years will not be applied.</p> <p>2. Non-mobile citizens of Latvia (right to family reunification is stipulated in national regulation) and third-country nationals (Directive 2003/86) – registered or unregistered partnership is not considered an equivalent to a marriage and partners have no right to family reunification. However, each case is considered separately and a decision could be taken to grant a residence permit on the ground of humanitarian reasons.</p>
	<b>Lithuania</b>	<b>No</b>	This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further.
	<b>Luxembourg</b>	<b>Yes</b>	<p>For UE citizens (mobile and not-mobile) and members of their family, and for Third country nationals, the partnerships registered in Luxembourg or abroad (defined by the Law of 9 July 2004 modified by law of 12 August 2010<sup>1</sup>) are considered, for the purposes of family reunification, as equivalent to marriage.</p> <p><b>A) UE citizens and members of their family</b></p>



<sup>1</sup> <http://www.legilux.public.lu/leg/a/archives/2010/0134/al34.pdf>. Article 4-1 allows that partnerships that were celebrated abroad can be registered in Luxembourg. For doing it the parties must address a formal request to the public prosecutor office. However, both of the parties must prove that they do not have a forbidden family link as foreseen by articles 161 to 163 and 358 § 2 of the Civil Code and reside legally on the territory. A Grand-ducal regulation can determine the formalities of the application and the documents that must be filed.

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			<p><u>Mobile EU citizens:</u> Yes. Luxembourg confers a right to family reunification to those who have a stable and durable relationship (see conditions below).</p> <p><u>Non-mobile EU citizens:</u> Yes. Luxembourg confers a right to family reunification to those who have a stable and durable relationship (see conditions below).</p> <p><b><u>B) TCNs – Third country nationals</u></b> No, Luxembourg doesn't confer a right to family reunification to those who have a stable and durable relationship (see conditions below)</p> <p>For the <u>UE citizens and members of their family</u> who have a stable and durable relationship the following conditions are requested: Family reunification is permitted with the partner with whom the EU national has a stable relationship duly attested. The sustainability of the relationship is examined in regard to the intensity, the seniority and the stability of the links between partners. The proof of sustainability may be established by all means. It is proven if the partners established:</p> <ol style="list-style-type: none"> <li>a) They have cohabitate in a legal and uninterrupted manner during at least one year before the application is filed.</li> <li>b) They have a common child and both assumed together the parental responsibilities.</li> </ol> <p>Partners must not be engaged in marriage, declared partnership or a durable relationship with another person.</p> <p>The application of entry and stay of family members under these conditions is subject to deep analysis taking into consideration their personal situation.</p>
	<p><b>Netherlands</b></p>	<p><b>Yes</b></p>	<p><u>1. UE citizens and members of their family</u> 1.1 Mobile EU citizens : <b>yes, the Netherlands confer a right to family reunification (see conditions below)</b> 1.2 Non-Mobile EU citizens : <b>yes, the Netherlands confer a right to family reunification (see conditions below)</b></p> <p><u>2. TCNs – Third country nationals:</u> <b>yes, the Netherlands confer a right to family reunification (see conditions below). As of October 1<sup>st</sup> the Netherlands no longer confer a right to family reunification to unmarried partners.</b></p> <p>In the scenarios listed under 1.1, the following conditions are requested:</p> <ol style="list-style-type: none"> <li>1. The partners have to prove that they have a durable and stable relationship established as follows:             <ul style="list-style-type: none"> <li>- They have to prove that they have lived together in the Netherlands or in another country for at least 6 months before the application; or</li> <li>- They have a common child.</li> </ul> </li> <li>2. They come to live together;</li> <li>3. They are both at least 18 years old;</li> </ol> <p>In the scenarios listed under 1.2 and 2, the following conditions are requested:</p>




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			<p>1. The partners have to prove that they have a durable and exclusive relationship established as follows:</p> <ul style="list-style-type: none"> <li>- They have to prove they have a serious relationship by answering a questionnaire about the relationship and providing supporting documents ; or</li> <li>- They have a common child.</li> </ul> <p>2. They come to live together;</p> <p>3. They are both at least 21 years old;</p> <p>4. They are single and don't have a durable and stable relationship with someone else;</p> <p>5. They don't fall under provisions prohibiting marriage (ascendants, descendants, uncles, aunts, nieces, etc.)</p>
	<b>Poland</b>	<b>Yes</b>	<p><u>UE citizens and members of their family (Directive 2004/38/EC):</u>          Mobile EU citizens: no, Poland does not confer a right to family reunification to unmarried partners of Union citizens. In accordance with the Directive only family members of Union citizens covered by Art. 2. 2 of the Directive have a right to accompany or join Union citizen. However, partners may accompany or join Union citizens on general rules or on discretionary basis. In accordance with art. 53a (1) p.2 of the of the Act of 13 June 2003 on Foreigners (Consolidated text Journal of Laws of 2011, No 264, item 1573, as amended) residence permit may be issued to a foreigner who due to the ties of family kind intends to join a Polish citizen or an EU citizen residing in the territory of the Republic of Poland or to reside with him/her, if it justifies his/her residence in the territory of the Republic of Poland for a period exceeding 3 months.</p> <p>Non-Mobile EU citizens: no, Poland does not confer a right to family reunification to unmarried partners of non-mobile EU citizens. However, partners may accompany or join non-mobile Union citizens on general rules or on discretionary basis. In accordance with art. 53a (1) p.2 of the of the Act of 13 June 2003 on Foreigners residence permit may be issued to a foreigner who due to the ties of family kind intends to join a Polish citizen or an EU citizen residing in the territory of the Republic of Poland or to reside with him/her, if it justifies his/her residence in the territory of the Republic of Poland for a period exceeding 3 months.</p> <p><u>TCNs – Third country nationals (Directive 2003/86/EC):</u> no, Poland does not confer a right to family reunification to unmarried partners. In accordance with the Directive only family members of a sponsor covered by Art. 4. 1 and 10.3 (a) of the Directive have a right to family reunification. However, partners may accompany or join third country nationals residing in the territory of Poland on general rules or on discretionary basis. In accordance with art. 53a (1) p.4 of the of the Act of 13 June 2003 on Foreigners residence permit may be issued to a foreigner who demonstrates that there are circumstances justifying his/her residence in the territory of the Republic of Poland for a period exceeding 3 months, other than those listed in the Act.</p>
	<b>Portugal</b>	<b>Yes</b>	<p><u>UE citizens (mobile and no-mobile) and members of their family</u> – Yes. PT confers a right to family reunification (see conditions below)</p> <p><u>Third country nationals</u> - Yes. Idem.</p> <p>As common condition, they have to prove that they lived in similar conditions to those of married couples for a period of over two years. Unmarried couples prove their status by delivering any evidence legally accepted by the Portuguese legal framework (Act n. 7/2001).</p>


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			When examining an application regarding a <i>de facto</i> partner of the family reunion relevant factors must be pondered, such as: the existence of common children, former cohabitation, and the register of the partnership as well as any other trustworthy means of proof.
	<b>Slovak Republic</b>	<b>Yes</b>	<p>1.Mobile EU citizens: yes, Slovak Republic confers a right to family reunification EU citizens and their family members have right to family reunification Family member of an EU citizen (third country national) is not only a spouse, child, or direct relative of an EU citizen but the Slovak Republic grants also the residence permit to family member of the EU citizen not listed above but who is a member of his/her household or his/her partner with whom the EU citizen has permanent duly certified relationship.</p> <p>2.TCNs: Yes, Slovak Republic confers a right to family reunification, but not for unmarried partners. When a third country national applies for family reunification with another third country national they have to be in a relationship such as – spouse, child, parent, etc. The Slovak Republic does not accept in this case the right to family reunification of unmarried partners or any other relationship between two persons which can be proved.</p>
	<b>Slovenia</b>	<b>Yes</b>	<p><u>UE citizens and members of their family</u> :</p> <p>Mobile EU citizens : <b>yes, Slovenia confer a right to family reunification (see conditions below)</b> Non-Mobile EU citizens : <b>yes, Slovenia confer a right to family reunification (see conditions below)</b></p> <p><u>TCNs – Third country nationals</u>: <b>yes, Slovenia confer a right to family reunification (see conditions below)</b></p> <p>The following conditions are requested:</p> <ol style="list-style-type: none"> <li>In case of registered partnership the evidence (paper of registration of partnership) must be submitted by the applicant, or being obtained ex officio by the competent authority.</li> <li>Partner with whom the alien reside in a long-term partnership has to prove an existence of at least two years long, stable partnership, based on economic community, mutual emotional connection (an indication of this facts may be common child, common living in the same household, etc.). In cases where one partner already reside in the Republic of Slovenia on the basis of a residence permit, registration of residence or as Slovenian citizen, they have to prove that they had lived together before their arrival in Slovenia.</li> <li>Long term partnership cannot exist in case if: <ul style="list-style-type: none"> <li>- one of them or both of partners are married or have registered partnership;</li> <li>- if they fall under provisions prohibiting marriage (brother and sisters, uncle and niece, aunt and nephew, etc);</li> <li>- one of them or both are under 18 years of age;</li> <li>- one of them or both are seriously mentally disabled.</li> </ul> </li> </ol>
	<b>Spain</b>	<b>Yes</b>	<p>1.<u>UE citizens and members of their family</u> (option in article 3 – Directive 2004/38/EC)</p> <p>1.1 <u>Mobile EU citizens</u></p>

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			<p>Directive 2004/38/EC was transposed to Spanish law under Royal Decree 240/2007, of 16 February, on entry, free movement and residence in Spain of citizens of European Union (EU) Member States and other States belonging to the Agreement on the European Economic Area (EEA). In respect to family members accompanying or being reunited with a citizen of the European Union or of any other State belonging to the European Economic Area, Article 2 of said Royal Decree is applicable to the partner, whatever his/her nationality, with whom there exists a relationship analogous to that of a spouse, provided:</p> <ul style="list-style-type: none"> <li>- The relationship is duly recorded on a public register established for that purpose in a European Union Member State or a State belonging to the European Economic Area; AND</li> <li>- The entry has not been cancelled, with sufficient evidence submitted in that respect.</li> </ul> <p>In any case, the situations of marriage and of registered partnership are deemed to be mutually incompatible.</p> <p>1.2 <u>Non-Mobile EU citizens</u> Provisions of Royal Decree 240/2007, of 16 February also apply for Non-Mobile EU citizens (same regulation).</p> <p>2.<u>TCNs – Third country nationals</u> (option in article 4.3 – Directive 2003/86/EC) Third-country nationals legally residing in the EU who apply to reunite their family members in order to preserve family unity (European Council Directive 2003/86/EC) are governed under the Articles 17 to 19 of the Aliens Act (Organic Law 4/2000) and 52 to 61 of the Implementation Regulation of said Act, approved under the Royal Decree 557/2011, of 20 April, which comprise the basis of general immigration law.</p> <p>According to these articles, foreign residents are entitled to be reunited in Spain with persons with whom they maintain a relation of affection analogous to that of marriage provided said relationship is duly accredited and meets all necessary requirements to have effects in Spain. Such persons shall be deemed equivalent to a spouse for all purposes (i.e. the latter may reunite the family members described in previous paragraphs). Just as with spouses, foreign residents shall not be reunited with more than one person with whom they maintain a relation of affectivity analogous to that of marriage, even when the law in the alien’s country of origin allows this form of marriage. In any case, the situations of marriages and analogous relationships are deemed mutually incompatible.</p>
	<p><b>Sweden</b></p>	<p align="center"><b>Yes</b></p>	<p>The rules regarding family reunification (although regulated in different ways) is the same for everyone residing in or with a residence permit to the country. If the spouse has a residence permit or is residing in the country then the partner as the main rule is entitled to a residence permit.</p> <p>The Swedish legislative system concerning family reunification includes same-sex marriages and cohabitation abroad. To be able to benefit from family reunification due to cohabitation the couple must have lived together abroad. Sweden makes no difference as to</p>

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			<p>whether the relation is formalised through marriage or whether it is between different or the same sex – “an alien who is a spouse or cohabiting partner of someone”.<sup>2</sup> In Sweden, cohabitation is defined as two persons permanently living together in a relationship and sharing the same household.<sup>3</sup></p> <p>In the Directive on family reunification it is an <b>obligation</b> to grant a residence permit to a spouse and any unmarried, underage children of the reference person or to the spouse. In Sweden a registered partner or a cohabiting partner (where the couple has lived together abroad) is to be treated in the same way as a married couple.</p> <p>The possibility to attain a residence permit is available regardless of whether it is a case of family reunification or a newly established relationship. The only difference is that applicants who intend to get married or to cohabit are not covered by the directive on the right to family reunification and therefore do not have the same strongly established <b>right</b> to get a residence permit but instead <b>can</b> be granted a residence permit. In these cases of new relationships an examination is regularly carried out to check whether the relationship is serious. There is no time requirement for the duration of the marriage before application. The only requirement is that a document proving the marriage is provided and if that is the case the application can only be denied if any of the grounds for refusal are fulfilled and in those cases the burden of proof is with the Migration Board (see 3.5).</p> <p>If it is a newly established relationship an investigation can be made to prove that the relationship appears to be serious.<sup>4</sup> In the framework of this investigation, the authorities check:</p> <ul style="list-style-type: none"> <li>- whether the relationship has lasted for a time – the exact time span is not defined.</li> <li>- whether the partners have met,</li> <li>- whether they have a good knowledge about each other</li> <li>- whether they have a joint language</li> </ul> <p>If the couple has lived together abroad for more than two years the spouse will normally be granted a permanent residence permit. If it is a newly established relationship the residence permit shall be for a limited time on the occasion of the first decision (deferral of immigrant status).<sup>5</sup> Normally, such a temporary residence permit is valid for two years, after which a permanent residence permit will be granted if the relationship continues. The continuance of the relationship should be checked upon before the permanent residence permit is granted.<sup>6</sup></p>
	Norway	Yes	<p><u>UE citizens and members of their family</u>  Mobile EU citizens : <b>yes, Norway confer a right to family reunification (see conditions below)</b>  Non-Mobile EU citizens : <b>yes, Norway confer a right to family reunification (see conditions below)</b>  <u>TCNs – Third country nationals</u>: <b>yes, Norway confer a right to family reunification (see conditions below)</b></p>

<sup>2</sup> Aliens Act 2005:716, Chapter 5 section 3.

<sup>3</sup> Cohabitee Act (2003:376) § 1.

<sup>4</sup> Aliens Act 2005:716, Chapter 5 section 3a.

<sup>5</sup> Aliens Act 2005:716, Chapter 5 section 8, 16.

<sup>6</sup> Aliens Act 2005:716, Chapter 5 section 16.

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			<p>In all the scenarios listed above, the following conditions are requested:</p> <ol style="list-style-type: none"> <li>1. They have to prove that they have a durable and stable partnership relationship established as follows: <ul style="list-style-type: none"> <li>• They prove that they have lived in Norway or in another country in a legally for at least 2 years before the decision; or</li> <li>• The parties have a common child. Further, parties that expect a common child may be granted the right of residence in Norway</li> </ul> </li> <li>2. They plan live together in the future</li> <li>3. As a main rule the parties must be single</li> </ol> <p>For scenario 3 above there are additional requirements, the sponsor must document to have had a sufficient previous income, sufficient future income, and to not have received financial support under the Social Services Act. For some categories of sponsors it is also required that the sponsor documents 4 years of work or education in Norway. It is uncertain whether these conditions will also apply to category 2.</p>
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